

REMARKS

Status of the Application

Claims 1-11 have been examined. Claims 1-5, 7 and 9-11 are rejected.

Allowable Subject Matter

Applicant thanks the Examiner for indicating that claim 8 is allowed. Applicant thanks the Examiner for indicating that claim 6 would be allowed if rewritten in independent form. However, Applicant respectfully requests that the Examiner hold in abeyance such rewriting until the Examiner has had an opportunity to reconsider (and withdraw) the prior art rejection of the other claims.

Substance of Interview

Applicant thanks the Examiner for conducting a telephone interview on March 17, 2006. During the Interview, Applicant discussed features related to defining the location of the bottom of the shunt plate portion of claims 1 and 11, and in addition, the features of claim 7 related to the inclined portion of the shunt plate. The Examiner noted that, regarding claims 1 and 11, under a broad reading the top end of the air inlet may be regarded as any portion of the air inlet above the centerline. Regarding claim 7, the Examiner noted that the air flow contacts all portions of the shunt plate.

Anticipation Rejection

The Examiner has rejected claims 1-5 and 9-11 under 35 U.S.C. § 102(b) as being anticipated by Kohmura et al. (U.S Patent Application Publication 2002/0023485A1; hereinafter "Kohmura"). This rejection is respectfully traversed.

Claim 1

Kohmura discloses a split type flow meter (Fig. 2(D), Fig. 5) inserted into a main flow pipe 10 (para.128, lines 2-4), wherein the split type flow meter includes an introduction unit 2, a flow splitter tube 1, a bypass flow path 22, a second flow path 30, and a partition 8 forming the split flow path. Further, Kohmura discloses detection unit 3 including a detection element 7 and a circuit board 5 for measuring the flow rate of the main flow pipe 10 (Fig. 2 (D)).

The Examiner takes the position that Kohmura discloses all the features of independent claim 1, specifically alleging that the partition 8 (Fig. 5) is equivalent to the “shunt plate,” wherein “the edge of the shunt plate is located on an imaginary line or distant from the imaginary line to the side of the second passage, in which the imaginary line is parallel to the axis of the intake passage and passing through the top end of the air inlet.”(Office Action, pg.2, 3rd full par.)

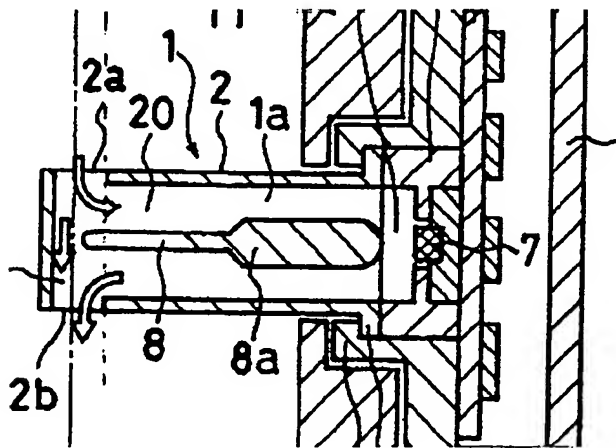


Fig. 1 Kohmura et al. Figure 5 (Dotted line superimposed)

In contrast, Applicant respectfully submits that Kohmura fails to disclose, at least, a shunt plate having a bottom edge adjacent to the first passage, wherein the bottom edge of the shunt plate is located on or above an imaginary line in which the imaginary line is parallel to the axis if

the intake passage and passing through an uppermost edge of the air inlet, as recited in claim 1.

In the Response to Arguments portion of the November 3, 2005 Office Action, the Examiner states, “Applicant fails to point out the disclosed structure encompassed by the cited limitation and how this structure patentably distinguishes over Kohmura.” (Office Action, pg. 3) In order to do so more clearly, Applicant refers the Examiner to Figure 1 above, which is a reproduction of Figure 5 of Kohmura with a dotted line superimposed on a portion thereof.

Specifically, Applicant points out two features relating to the edge of the shunt plate: (1) having an edge that is adjacent to the first passage; and (2) wherein the edge is located on or above the imaginary line which is parallel to the axis of the intake passage and passing through the top of the air inlet. With regard to these features (edge adjacent to first passage, location on or above the imaginary line), claim 1 recites that the first passage extends from the air inlet to the air outlet. This is represented in Figure 1 above by the passage leading from flow inlet 2a to flow outlet 2b whereas the top of the passage is indicated by the superimposed dotted line and the bottom is indicated by the cross-hatched area to the left of the passage. Thus, this passage is similar to the first passage of independent claim 1. From this depiction, it is quite clear that the edge of partition 8 is not located on or above an imaginary line passing through an uppermost edge of the air inlet of the first passage, but instead crosses the imaginary line into the first passage. Thus, the shunt plate in Kohmura does not meet all the features of independent claim 1.

Thus, Applicant respectfully submits that independent claim 1 is patentable over the applied reference Kohmura. Further, Applicant respectfully submits that rejected dependent claims 2-5 and 9-10 are allowable, *at least* by virtue of their dependency.

Claim 11

With regard to claim 11, Applicant respectfully submits that this claim is patentable over Kohmura, at least, because it recites the same patentable features discussed above with reference to independent claim 1. Namely, claim 11 recites “a shunt edge that is adjacent to the first passage,” and the “edge of the shunt plate is located on or above an imaginary line wherein said imaginary line is parallel to the axis of the intake passage and passes through an uppermost edge of the air inlet.”

Thus, Applicants respectfully request that the Examiner withdraw this rejection.

Obviousness Rejection

The Examiner has rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Kohmura in view of Nagasaka et al. (U.S. Pat. No. 5,804,718; hereinafter “Nagasaka”). This rejection is respectfully traversed.

The Examiner applies Kohmura alleging that it discloses most of the features of claim 7, but concedes Kohmura fails to disclose “a shunt plate having a plate-like portion extending in a direction that crosses an axis of the intake passage and an include portion that is continuous with the plate-like portion and projects into the first passage so as to be inclined toward the air inlet.

However, Applicants respectfully submit that the applied combination fails to teach or suggest a plate-like shunt plate having a first inclined surface on an upstream side of the plate-like portion and a second inclined surface on a downstream side of the plate-like portion wherein both the first and second inclined portions are included toward a downstream side of the first passage.

Nagasaka discloses a guide section 24 for guiding the bypass flow toward the downstream side of the tube section, however, in contrast to the above recitation of claim 7, the guide section 24 is not disposed on a plate-like portion extending in a direction that crosses the intake passage. The lower end of the guide section 24 has a blunt shape, not the plate-like shape as recited in claim 7. (Figure 1b) Nagasaka fails to disclose a plate-like shunt plate having a plate-like extension, and thus, does not meet all the features of claim 7.

Thus, applicants respectfully submit that claim 7 is allowable over the applied reference of Kohmura and Nagasaka.

Conclusion

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David P. Emery', written over a horizontal line.

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